

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

JONATHAN JASON RODRIGUEZ,

Plaintiff,

v.

BRAD CAIN, et al.,

Defendants.

Case No. 2:20-cv-1581-AR

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge Jeffrey Armistead issued Findings and Recommendation in this case on March 7, 2023. Judge Armistead recommended that this Court grant the defendants' motion for summary judgment. No party has filed objections.

Under the Federal Magistrates Act (Act), the court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). If a party objects to a magistrate judge's findings and recommendations, "the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.*; Fed. R. Civ. P. 72(b)(3).

If no party objects, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate judge’s findings and recommendations if objection is made, “but not otherwise”).

Although review is not required in the absence of objections, the Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court review the magistrate judge’s findings and recommendations for “clear error on the face of the record.” No party having made objections, this Court follows the recommendation of the Advisory Committee and reviews Judge Armistead’s Findings and Recommendation for clear error on the face of the record. No such error is apparent.

The Court ADOPTS Judge Armistead’s Findings and Recommendation. ECF 51. The Court GRANTS the defendants’ motion for summary judgment. ECF 38. The Court further finds that any appeal from this Order would be frivolous and thus would not be taken in “good faith” as that term is used in 28 U.S.C. § 1915(a)(3). *See Coppedge v. United States*, 369 U.S. 438, 445 (1962). Accordingly, Plaintiff’s *in forma pauperis* status should be revoked.

IT IS SO ORDERED.

DATED this 10th day of April, 2023.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge